

RULES GOVERNING PUBLIC WATER AUTHORITIES
(October 2001)

TITLE XVII

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SUBTITLE I. GENERAL PROVISIONS

Section 1701.1. PURPOSE AND ENABLING LEGISLATION.

This title implements Act 115 of 2001, as codified, by establishing a procedure by which non-profit corporations involved in the sale, transmission, and distribution of potable water to members of the public and others may convert their entity status from private corporations to government bodies.

Section 1701.2 DEFINITIONS.

A. Applicant: a non-profit corporation which provides, distributes, transmits, treats, pumps, or stores raw or potable water to or for the benefit of members of the general public and commercial, industrial, and other users.

B. Application: documents to be submitted by the Applicant to the Commission as listed in Section 1702.1.

C. Certificate of Existence: a document issued by the Executive Director which brings a Public Water Authority into existence.

D. Commission: the Arkansas Soil and Water Conservation Commission.

E. Executive Director: the Executive Director/Ex-Officio Secretary of the Commission.

F. Public Water Authority: a body politic and governmental entity organized pursuant Act 115 of 2001, as codified.

SUBTITLE II. PROCEDURE

Section 1702.1 APPLICATION PROCEDURE.

A non-profit corporation involved in the sale, transmission, and distribution of potable water to members of the public and others may apply to convert its entity status from a body corporate to a body politic by filing the following items with the Commission:

A. An application signed and acknowledged by a majority of the Applicant's board of directors, which shall state and include the following information:

1. The name of the proposed Public Water Authority, which shall be "The _____ Public Water Authority of the State of Arkansas," or similar name;
2. The location of the proposed Public Water Authority's principal office;
3. The number of directors of the proposed Public Water Authority, which shall be subject to change and modification as provided in its bylaws;
4. The names and addresses of the initial board of directors of the proposed Public Water Authority;
5. The name and address of the proposed Public Water Authority's agent for service of process; and
6. Any other matters that the initial board of directors may deem necessary and appropriate.

B. A resolution duly adopted by the Applicant's board of directors evidencing the desire to convert into and become reconstituted and re-incorporated as a Public Water Authority and certifying that the Applicant:

1. Was initially formed as a non-profit corporation;
2. Cannot directly access the tax-exempt capital markets other than through a conduit issuer; and
3. Desires to realize interest rate savings as a result of its conversion and reconstitution as a Public Water Authority.

C. A copy of the Applicant's bylaws and the proposed Public Water Authority's bylaws with any proposed changes noted.

D. A statement and certification from the Secretary of State that the name of the proposed Public Water Authority is not identical with that of any other Public Water Authority, or so nearly similar thereto as to lead to confusion and uncertainty.

E. A filing and review fee of \$750, which shall be deposited in the Water Development Fund as provided in Ark. Code Ann. §15-20-209 and §15-22-514.

G. Any other information and documents which the Executive Director may designate and require.

Section 1702.2 REVIEW PROCEDURE.

A. When the Commission receives an application, the Executive Director shall review it to ascertain its completeness and accuracy.

B. The Applicant shall provide any additional items or information requested by the Executive Director.

Section 1702.3 PUBLIC NOTICE.

Upon completion of Commission review, the Executive Director will cause a public notice to be published two times, at least one week apart, in a newspaper having general circulation in the county where the Applicant's principal office is located. The notice shall contain the name of the Applicant, the name of the Public Water Authority, its address, and shall state that a Certificate of Existence has been issued and the effect of its issuance.

SUBTITLE III. CERTIFICATE OF EXISTENCE

Section 1703.1 ISSUANCE OF CERTIFICATE OF EXISTENCE

If the application is found by the Executive Director to be complete and accurate, the Executive Director will issue a Certificate of Existence. The Public Water Authority referred to therein shall come into existence as a body corporate and politic and a political subdivision of the state under the name set forth in the Certificate of Existence. Issuance shall terminate and dissolve the previous corporate existence of the non-profit corporation.

Section 1703.2 FILING WITH SECRETARY OF STATE

After issuance of the certificate of Existence, it, and the Public Water Authority's entire application, shall be filed in the office of the Secretary of State.